

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 2B

9:00 a.m.

April 15, 2009

TELEPHONIC MEETING

MINUTES

DIVISION STAFF PRESENT:

Mark B. Steinagel, Division Director

Dee Johnson, Enforcement Director

Mark Fagergren, Education and Licensing Director

Traci Gundersen, Assistant Attorney General

Renda Christensen, Board Secretary

Tiffeni Wall, Real Estate Education Coordinator

COMMISSION MEMBERS PRESENT:

Doyle "Sam" Sampson, Chair

Gary R. Hancock, Vice Chair

H. Blaine Walker, Commissioner

Stefanie Tugaw-Madsen, Commissioner

GUESTS:

Kevin Swenson

Paul Naylor

Tammy Lund

Karen Post

Irene Kennedy

David Bornemeier

Lance Miller

Chad Ahearn

The April 15, 2009 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Sampson conducting. Commissioner Ashton was out of town and excused from this meeting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The Minutes from the March 18, 2009 meeting had one clarification. On page 2, fourth paragraph, it was recommended by Commissioner Tugaw-Madsen that the wording should be, "it was suggested that the hours for a 90-hour applicant must be completed by March 31, 2010." With this change, the minutes were unanimously approved as amended.

DIVISION REPORTS

DIRECTOR'S REPORT – Mark B. Steinagel

Director Steinagel said it appears that the telephone meeting scheduled for June will have to be changed to a live hearing because of the volume of applications and disciplinary hearings that need to be scheduled. The Commission approved the change.

The Appraiser Board mentioned there has been some confusion about what is permitted under the law in terms of Broker Price Opinions. The Appraiser Board asked Director Steinagel if he would approach the Commission to see if they would be interested in participating in a working group with them and industry associations. There may be some clarifications needed to the statute as to what changes need to be made, if any. Commissioner Walker said it was a good thing to bring this topic to a head, because Broker Price Opinion is becoming a bigger issue with many of the banks and lenders. Chair Sampson and Commissioner Tugaw-Madsen will be on the working group. If distance becomes an issue with Chair Sampson traveling to Salt Lake City, then Commissioner Hancock volunteered to step in. Director Steinagel said the meeting could be scheduled as a phone meeting to avoid traveling.

The Division has been getting questions from people about what requires a license. Director Steinagel said he was on the phone with an attorney yesterday asking whether people who negotiate easements are required to hold a license. The answer is yes, unless they are utility employees where there would be an exemption. Director Steinagel said the Division has a meeting scheduled with UDOT as to what their exemption means. Director Steinagel and Mr. Johnson have met several times with short sale experts who are not licensed, and informed them they had to be licensed.

Director Steinagel believes there has been some effective regulation going on and said the Commission and Division have done a good job in getting the information out to the public.

Chair Sampson said there is an attorney from Salt Lake City who is down in the St. George area buying property for himself and then wants a 3% commission. The attorney needs to be licensed to collect or share in the commissions.

Director Steinagel informed the Commission there is a need to change our rule that has been in place since the early 1990's about what kind of complaints the Division may entertain. A draft rule R162-7-1, Filing a

Complaint, was handed out with a few changes. The rule would now read, "The Division will only entertain a complaint between licensees regarding commissions if the complaint alleges, or the Division suspects, a specific violation of Utah Code Annotated Section 61-2-11 or R162-6." Director Steinagel suggested an addition to add "-1" to the rule. Improper Practices is -1, and -2 is Standards of Practice. A motion was proposed to approve the changes, and it passed unanimously.

Director Steinagel received an e-mail article from April 8, 2009 The Park Record, Editorial section regarding nightly rentals. Basically, there is consternation about the exemption we have in statute that was put in place in 1997, exempting from the definition of property management and rentals for shorter than 30-days. The end of the editorial says if lodging companies want to remain competitive they should immediately begin working with the legislature on some new rules to prevent this from happening again. Director Steinagel suggested that this item be placed on the agenda for next month so it can be discussed as to whether the exemption is needed.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in the month of March the Division received 41 complaints; screened 45 complaints; opened 6 cases; closed 8 cases, leaving the balance of cases at 114.

There are two stipulations being presented to the Commission. The respondents were given the chance to appear to answer any questions the Commission might have and declined to attend.

Review of Stipulation:

Vaughn Milliron

Glen B. Morse

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the statistics show March is the first month in the last eleven months in which we haven't seen a decline in the numbers in real estate licensees. Over the last eleven months, there has been a drop of approximately 2,550 active licensees, and an increase in 1,100 inactive licensees.

The newsletter was sent to the printer yesterday. Next Thursday is the start of the Caravan events that will take place throughout the state. When the Division goes out to communities in the outreach areas, oftentimes they give the Division a reality check about the way things are and the way things out to be. We may come back before the Commission on some of the items that

are pressing on their minds.

The Division has been looking closely at the legislative changes dealing with education and has been tracking the time frame in which we need to make decisions. It is a recommendation of the Division that the Commission formulate a committee with Mr. Fagergren, Ms. Wall, at least one commissioner, two industry brokers, two educators to serve, and perhaps add an investigator from the Division to serve, which would give the committee eight members.

The purpose of this committee is to look at the prelicense education from 90 hours with the new statute increasing the hours to 120 and to look whether or not we are going to add hours to the current 90 hours. If the curriculum is going to be changed, how it would be changed? The hope is that we can get this committee in place and report back to the Commission no later than July, possibly the June Commission meeting, with some recommendations.

After prelicense education, the second most important task is the CE issue going from 12 hours to 18 hours. Individuals are somewhat uneasy as to the issue of core courses and whether that will increase. The issue of competency is important as to whether or not we should include some courses that are competency-based as opposed to seat-time based.

The final issue is the new agent course for 12 hours because that is what the limitation was at the time. If the committee recognizes the hours are now increased to 18 hours, suggestions can be made as to any change in this course for the additional six hours.

The Division has received a letter from the state of New York asking for reciprocity with our state. Commissioner Walker suggested the greater amount of reciprocity that we can accomplish, the better it will be for the industry. The more we cooperate with other states the less likely we are to have federal intervention. Mr. Fagergren said we will assess what their specifics are and get back the Commission. New York's sales agent course is 75 hours and ours is just going to 120 hours.

The issue of a commercial REPC was discussed. A motion was made to establish a committee composed of those who developed the commercial REPC, with members of the AG's office, and a member of the Commission, to meet and review this document. The committee would also review this document and come to an agreement to make a recommendation to the

Commission next month to approve this form. Approving this as a state approved form will allow it to be used for continuing education core course credit. The motion was passed unanimously. It was discussed to have Curtis Bullock from the UAR involved in this process, and possibly the members of the original REPC committee. Commissioner Walker will be the representative from the Commission.

COMMISSION AND INDUSTRY ISSUES – Sam Sampson

The Commission members and Director Steinagel received a letter from a licensee regarding the wording in the newsletter as to “criminal” charges. His point was what people would think when they saw the word in a heading. After discussion, it was decided to leave the wording the same in the newsletters.

Commissioner Tugaw-Madsen asked if the Apartment Association has rescheduled a meeting with the Commission. Director Steinagel said he would call them back to see if they were still interested in a meeting.

A question from Ms. Post was if the Commission would consider an amendment to Rule 6.1.9.1 on Token Gifts. The current amount of \$50.00 to give as an unsolicited referral has been the same amount for at least 20 years. She asked the Commission to consider raising the amount to perhaps \$100.00. Mr. Johnson said a distinction must be made between a referral fee and a token gift. Commissioner Walker said that we have to be careful when considering raising the amount. It was suggested that this topic be put on the agenda for next months meeting.

A motion was made and accepted to go into Executive Session from 10:20 a.m. to 10:40 a.m.

RESULTS OF EXECUTIVE SESSION

Results of Stipulations:

Vaughn Milliron - Approved

Glen B. Morse - Approved

Members selected to serve on the Education Committee were:

Mark Fagergren

Chair Sampson

Tiffeini Wall

Commissioner Hancock

Industry members:

Lerron Little

Jim Bringhurst

Bob Hill and Bonnie Peretti will be asked if either Mr. Little or Mr. Bringhurst will not be available.

Educators:

Tammy Lund

Robert Valentine

Rick Roller

The alternate will be Tyson Payne if one of three educators isn't available.

There will be one investigator to be chosen by the Division to be on the Committee.

A Motion was made and accepted to adjourn the meeting at 10:42 a.m. The Motion was passed unanimously.